IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 23914 of 2007(V)

(ID.53/2003 of INDUSTRIAL TRIBUNAL, KOLLAM)

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PETITIONER:

URBAN STANCILAS AND COMPANY,
REPRESENTED BY MANAGING DIRECTOR, DEVELOPMENT PLOT
MUNDAKKAL WEST, POST BOX NO.12, KOLLAM.

BY ADV. SRI.T.K.SASIKUMAR
SMT.K.G.SARALAKUTTY

RESPONDENTS:

1. THE INDUSTRIAL TRIBUNAL, KOLLAM.

2. L. OMANAYAMMA,
KRISHNA VILASOM, VALAKOM P.O., KOTTARAKKARA.

3. M. LEKSHMIKUTTY,
KALABHAVAN, VALAKOM, PODIYATTUVILA P.O.,
KOTTARAKKARA.

4. VIJAYA KUMARI,
PRASAD BHAVAN, VETTIKKAVALA, KOTTARAKKARA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 23914 OF 2007 - V

Dated this the 6th day of August, 2007

J U D G M E N T

The petitioner is the management in I.D.No.53 of 2003 before the Industrial Tribunal, Kollam. The issue referred for adjudication was as follows:-

> "Whether the alleged closure of Urban Stancilas Company, Chirattakonam with effect from 31.5.2000 is justifiable? 2. If not what relief the workmen namely Smt.L.Omana Amma, Smt.M. Lekshmykutty, Smt.S.Santha Kumari and Smt.Vijaya Kumari are entitled to."

The Tribunal found that the closure was an admitted fact and therefore, the Tribunal cannot go into the question of justifiability of that closure. However, on the basis of the admission made by the management witness that the management is prepared to pay the benefits in accordance with law to the workmen, like arrears of wages, notice pay, gratuity and retrenchment compensation, an award was passed holding that the workers are entitled to arrears of wages from January 2000 to 31.5.2000, notice pay, retrenchment compensation/closure compensation and

gratuity with simple interest at the rate of 9% from 1.7.2000 onwards. That award was passed on 10.10.2006. The petitioner did not challenge the same at that time. Thereafter, the workmen filed Ext.P3 claim petition before the Labour Court, Kollam. Now, the petitioner challenges Ext.P2 award and proceedings before the Labour Court pursuant to Ext.P3.

2. I am not inclined to entertain the challenge against Ext.P2, at this point of time, since the same was passed as early as on 10.10.2006, that too on the basis of the admission of the management witness. No explanation is also forthcoming for the delay of ten months. Therefore, I repel the challenge against Ext.P2 award. However, the learned counsel for the petitioner expresses an apprehension that the Labour Court may dispose of the claim petition without hearing the petitioner in respect of the amount payable. I do not think that there is any basis for such apprehension. The Labour Court cannot decide the claim petition without hearing the petitioner and without affording the

petitioner an opportunity to adduce evidence in support of its contentions. Without prejudice to such right, this writ petition is dismissed.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007